

# EXHIBIT A

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----X  
4 VICTOR ORENA, CV 96-1474  
PASQUALE AMATO, CV 96-1461

5 Plaintiffs,  
6 v. : United States Courthouse  
7 Brooklyn, New York  
8 UNITED STATES OF AMERICA,  
9 : May 20, 1996  
Defendant. : 10:00 o'clock a.m.

10 -----X  
11  
12 TRANSCRIPT OF HEARING  
13 BEFORE THE HONORABLE JACK B. WEINSTEIN  
UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Plaintiff Orena: GERALD SHARGEL  
16 ALAN FUTERFAS  
ELLEN RESNICK  
17 For the Plaintiff Amato: BENJAMIN BRAFMAN  
BRETT GILBERT  
JEFFREY LICHTMAN

18  
19 For the Defendant: GEORGE STAMBOULIDIS  
20 ANDREW WEISSMANN

21  
22 Court Reporter: Anthony M. Mancuso  
23 225 Cadman Plaza East  
Brooklyn, New York 11201  
24 (718) 330-7687

25 Proceedings recorded by mechanical stenography, transcript  
produced by CAT.

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1 he explained to his client about what the potential conflict  
2 could be.

3 THE COURT: Go ahead and ask him. Put it on the  
4 record.

5 MR. FUTERFAS: Your Honor, I spoke to Mr. Orena this  
6 morning where the other cases stand. They are all but  
7 completed. I represented a Mr. Cappa. That individual was  
8 sentenced. I represented another individual before Judge  
9 Raggi. That individual took a plea. He is awaiting  
10 sentence. I represented Mr. Anthony Russo in post-trial  
11 proceedings and, the last court appearances on that, that  
12 record is fully submitted before Judge Sifton. The last court  
13 appearance was in July of 1995 I believe and I have also  
14 explained to Mr. Orena that Mr. Shargel is going to be  
15 carrying by far the laboring oar this morning. I'm assisting  
16 Mr. Shargel in preparing the cross-examinations, preparing  
17 Mr. Shargel, and that's it.

18 THE COURT: Anything further?

19 MR. WEISSMANN: If the defendant could indicate that  
20 he understands that those raise potential problems.

21 THE COURT: Do you understand there are potential  
22 problems that may adversely affect you?

23 DEFENDANT ORENA: Yes.

24 THE COURT: Do you want these attorneys to represent  
25 you?

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1 (Case called; both sides ready.)

2 THE COURT: All right. Put on your case.

3 MR. SHARGEL: Your Honor, we first call agent  
4 Lindley DeVecchio.

5 MR. WEISSMANN: Your Honor, I don't mean to delay  
6 the proceedings. As we mentioned last week, we believe there  
7 needed to be Curcio waivers, particularly because one of the  
8 new attorneys for Mr. Orena has represented numerous people in  
9 the Colombo Family on both sides of the floor.

10 THE COURT: Who is?

11 MR. WEISSMANN: Mr. Futerfas. He indicated that he  
12 discussed this with Victor Orena. But I just want to make  
13 sure that there is a waiver on the record before we proceed.

14 MR. FUTERFAS: We have no objection to that, your  
15 Honor.

16 I have spoken with Mr. Orena about this issue.

17 THE COURT: Is that so, sir?

18 DEFENDANT ORENA: Yes.

19 THE COURT: What about the other defendant, any  
20 objection?

21 DEFENDANT AMATO: No, sir. No, your Honor.

22 MR. GILBERT: No.

23 THE COURT: Anything further on that?

24 MR. WEISSMANN: Your Honor, I think it needs to be a  
25 little bit more detailed. If Mr. Futerfas can indicate what

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1 DEFENDANT ORENA: Yes, your Honor.

2 THE COURT: Anything further?

3 MR. WEISSMANN: No, your Honor. Thank you.

4 THE COURT: All right. Swear the witness.

5 LINDLEY DeVECCHIO,

6 having been duly sworn was examined and  
7 testified as follows:

8 THE CLERK: State your name and spell it for the  
9 record.

10 THE WITNESS: Lindley, L I N D L E Y, DeVecchio, D E  
11 V E C C H I O.

12 DIRECT EXAMINATION

13 BY MR. SHARGEL:

14 Q. Mr. DeVecchio, you are an agent of the Federal Bureau of  
15 Investigation?

16 A. Yes, I am.

17 Q. Are you presently on duty? Do you have an active role in  
18 the Federal Bureau of Investigation?

19 A. On advice of counsel, Mr. Shargel, I cannot answer your  
20 questions because of my Fifth Amendment privilege.

21 Q. Did there ever come a time when you met a man by the name  
22 of Gregory Scarpa?

23 A. My answer is the same as the previous one.

24 Q. Did you ever give information to Gregory Scarpa about  
25 activity and information that the FBI learned?

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- 1 A. That's correct.
- 2 Q. And when did you learn that Gregory Scarpa was committing
- 3 acts of violence?
- 4 A. Do you have any specific acts that you are speaking of?
- 5 Q. Let's focus on the year 1991. Let me be more specific.
- 6 Did there come a time when you started participating in
- 7 meetings with a joint task force, with the FBI, the Kings
- 8 County District Attorney's Office and other members of the New
- 9 York City Police Department?
- 10 A. Yes. Initially it was the FBI and just people from the
- 11 organized crime division of the police department, the
- 12 Brooklyn DA's Office came on later.
- 13 Q. Isn't it a fact that joint meetings with these other
- 14 agencies began in or about December of 1991?
- 15 A. We met with the New York Police Department in December
- 16 1991.
- 17 Q. Isn't it a fact that you learned from the New York City
- 18 Police Department, detectives from the New York City Police
- 19 Department, that Gregory Scarpa was described as one of the
- 20 most violent and active people in this alleged war?
- 21 A. He was among the violent people in the war. Do you want
- 22 to put a time period to this? I'm not sure what you are
- 23 asking.
- 24 Q. Let me see if I can be more specific.
- 25 December 1991 there had already been shooting in what

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- 1 Q. And how many murders had taken place in December of 1991?
- 2 A. In December I believe there were first, third, fifth and
- 3 the eighth, four.
- 4 Q. Sorry.
- 5 A. I believe there were four in December of 1991.
- 6 Q. In December of 1991 you were told by representatives of
- 7 Kings County District Attorney's Office that Gregory Scarpa's
- 8 crew, Gregory Scarpa and his crew, were, as I said before,
- 9 among the most violent and active in the war, correct?
- 10 MR. WEISSMANN: Objection to the form.
- 11 THE COURT: Overruled.
- 12 A. They told me that was their belief. I don't recall
- 13 whether it was December 1991 or January '92.
- 14 Q. Well, do you remember the 302 that you filled out in
- 15 connection with this matter?
- 16 A. Yes.
- 17 Q. And do you have a copy of the 302? May we have an extra
- 18 copy for the agent? Or I can show you my copy.
- 19 Let me show you what we will for purposes of this
- 20 hearing -- actually, I'll keep the same exhibit number that
- 21 the government put on it in an earlier proceeding. 3500-8.
- 22 Let me show you a copy of what's been marked as
- 23 3500-8.
- 24 MR. SHARGEL: May I approach the witness, your
- 25 Honor.

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- 1 was supposed to be the war?
- 2 A. That's correct.
- 3 Q. In December of 1991 you already knew that on November 18
- 4 of 1991, according to Gregory Scarpa, someone shot at him,
- 5 right?
- 6 A. According to a number of people on November 18 of 1991
- 7 Gregory Scarpa was shot at.
- 8 Q. One of those people that was a source for that was
- 9 Gregory Scarpa himself, right?
- 10 A. He was one of several.
- 11 Q. You knew as of December of 1991, December of 1991, that
- 12 an attempt had been made to murder Vic Orena? You knew that,
- 13 didn't you?
- 14 A. Not as of December of 1991.
- 15 Q. You didn't know that?
- 16 A. Which attempt are you speaking of?
- 17 Q. The June 20 attempt of 1991.
- 18 A. We knew that in June.
- 19 Q. You knew that in June?
- 20 A. Yes.
- 21 Q. You knew that there was a potential for violence hat
- 22 least in June, correct?
- 23 A. That's correct.
- 24 Q. And in December of 1991, had people been murdered?
- 25 A. Yes.

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- 1 THE COURT: You need not ask.
- 2 Q. 3500-8. I'm referring you to page 2.
- 3 Does that refresh your recollection? Take a moment
- 4 to read it to yourself.
- 5 (Pause.)
- 6 A. Yes.
- 7 Q. Does that refresh your recollection that in December,
- 8 specifically on December 16, 1991, you were told of Gregory
- 9 Scarpa and his crew by the Kings County District Attorney's
- 10 Office?
- 11 A. No, I was not and it doesn't say that here.
- 12 Q. Is there anything in that 302 -- take your time and look
- 13 at it -- with respect to what you were told at that meeting?
- 14 A. What are you asking?
- 15 Q. My question to you is: Did you starting getting
- 16 information in December of 1991 that Gregory Scarpa was an
- 17 individual who was engaged in violent activity?
- 18 A. Probably. Not from this.
- 19 Q. Put that aside. Stay with the question.
- 20 Did you get information in December of 1991 that
- 21 Gregory Scarpa was engaged in acts of violence, threatening to
- 22 kill people, conspiring to kill people and actually killing
- 23 people?
- 24 A. He was among -- the whole family was at war. He was a
- 25 member of the family. We were hearing about a lot of people.

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- 1 according to what I heard from Kings County, who was doing  
2 this shooting?  
3 A. The way you have worded that question, the answer would  
4 be no. I don't recall a specific question along those lines.  
5 But I would like to explain that we discussed this  
6 information as it came in and we dealt with it as it came in.  
7 And when a 209 such as that one came in, it described  
8 several different shootings, in which case we really have no  
9 idea who has done any. We just have some source information  
10 -- I guess I should say some idea of who has done what  
11 shooting. Sometimes we were not sure what faction the person  
12 who was shot was on.  
13 We were dealing with a great deal of information. I  
14 didn't deal with Gregory Scarpa, Lin DeVecchio did. If  
15 Gregory Scarpa knew that information, I assume Lin DeVecchio  
16 would have asked him and put it on the document. We discussed  
17 things as they came in. Those are the answers that I could  
18 deal with or I dealt with and I dealt with it.  
19 Q. You assume, as you sit here now, that Lin DeVecchio would  
20 put down exactly what he discussed with Gregory Scarpa? Is  
21 that your view as you sit here now?  
22 THE COURT: No. Don't answer that.  
23 MR. SHARGEL: There are two prongs to this, your  
24 Honor.  
25 One prong is what should have been turned over prior

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- 1 to the trial in November and December of 1992.  
2 And the second prong is a newly discovered evidence  
3 standard.  
4 There are two separate issues. It's true that I  
5 jumped. In this portion of my questioning I am focusing on  
6 events that happened prior to Mr. Orena and Mr. Amato's  
7 trial. Certainly at a later time, pressing the new trial  
8 motion based on newly discovered evidence, I'll be addressing  
9 that as well.  
10 MR. WEISSMANN: Your Honor, the question --  
11 THE COURT: We'll wait until you get to it rather  
12 than jump around so we have a consistent and chronological  
13 record.  
14 MR. SHARGEL: I'll go in sequence.  
15 BY MR. SHARGEL:  
16 Q. Another individual has been murdered in December of 1991  
17 by the name of Vincent Fusaro, correct?  
18 A. That's correct.  
19 Q. Here again, not to labor it, this insert to the 209  
20 simply said that it was done by the Persico faction, right?  
21 A. That's correct.  
22 Q. And you recall no conversation with Agent DeVecchio where  
23 you either asked for more detail or were supplied more detail?  
24 A. We discussed these murders and this information as it  
25 came in and we dealt with the information as it came in. As I

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- 1 sit here I can't recall saying to him specifically we should  
2 know this because the way organized crime works a lot of times  
3 they don't talk about who specifically has done the murders.  
4 And to simply have the shooters names being on the Persico  
5 side was more than we had at that time.  
6 Q. Agent Favo, at any time during December 11, 1991 or the  
7 days thereafter, did you have any idea -- did you have any day  
8 that Gregory Scarpa was the person responsible for killing  
9 these people?  
10 A. December of 1991?  
11 Q. Not in December of 1991.  
12 Do you recall that on January 7, 1992 an individual  
13 by the name of Nicky Grancio was murdered?  
14 A. Yes.  
15 Q. And do you recall reading an insert that was prepared,  
16 January 8, 1992 --  
17 MR. SHARGEL: Which by the way, judge, in the  
18 exhibits says 1991. It's been testified to in other trials  
19 it's a typo.  
20 Q. Were you aware that there was an insert provided on  
21 January 8, 1992, dealing with --  
22 A. I am aware there was one provided.  
23 Q. And the insert on January 8, 1992 said that the murder of  
24 Nicky Grancio was done by the Persico faction, once again the  
25 Persico faction, of the Colombo Family?

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- 1 A. Yes.  
2 Q. Did there come a time shortly after that where you  
3 started to get information as to who it was in the Persico  
4 faction?  
5 A. That killed Grancio?  
6 Q. That killed Nicky Grancio, yes.  
7 A. We got a good deal of information in about the Grancio  
8 homicide at that time and it had a good number of different  
9 people responsible for that murder.  
10 Q. One of the people responsible for that murder, albeit  
11 among others, was Gregory Scarpa?  
12 A. Yes, among others.  
13 Q. You were told or related to the fact within days of Nicky  
14 Grancio being murdered on January 7, 1992, that Gregory Scarpa  
15 was responsible, right?  
16 A. That's correct.  
17 Q. In fact, you're aware that a detective, a detective by  
18 the name of Maggiore testified that you told him within days  
19 of the Grancio murder that it was Gregory Scarpa that killed  
20 Nick Grancio, correct?  
21 A. That's correct, because they were chasing someone else.  
22 Q. My question is, Agent Favo, putting aside because they  
23 were chasing someone else, the fact is you told Detective  
24 Maggiore of the Kings County District Attorney's Office and  
25 you believed in January of 1992 that there was strong reason

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1 to believe that Gregory Scarpa, the confidential informant,  
 2 had murdered Nicky Grancio, right?  
 3 A. We had had information that that was the case, yes.  
 4 Q. Did you have any discussions with Lindley DeVecchio in  
 5 January of 1992 about the fact that it was -- that you were  
 6 getting information that Gregory Scarpa, his informant, was  
 7 the person that was actually going out and shooting, murdering  
 8 people?  
 9 A. I discussed all the information that we received on any  
 10 of these cases with Lin DeVecchio. So I naturally would have  
 11 told him. I was one of the people.  
 12 Q. Was there any conversation between you and Lindley  
 13 DeVecchio at that time about the possibility that the  
 14 informant was killing people?  
 15 A. I told him he was one of the people that had been named  
 16 by the informants. That was the conversation we had.  
 17 Q. Did he say anything in response?  
 18 A. I don't recall anything. I don't recall the conversation  
 19 specifically, but I can tell you that we discussed this every  
 20 day.  
 21 Q. Did he say anything, like, nah, that couldn't have  
 22 happened, Gregory Scarpa wouldn't have done something like  
 23 that?  
 24 Did he ever say anything like that?  
 25 A. I don't recall.

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1 A. Yes, I did.  
 2 Q. And did any of the other informants say to you that it  
 3 was Gregory Scarpa's crew or Gregory Scarpa himself that was  
 4 responsible for the actual murder or shootings of these  
 5 people?  
 6 A. Some did and some named other people.  
 7 Q. As a matter of fact, there were other inserts to 209's in  
 8 January of 1992 where Gregory Scarpa started to name other  
 9 people for the murder of Grancio, right?  
 10 A. I know -- I can recall that he blamed another crew for  
 11 one of the murders. I don't know if it was Grancio or one of  
 12 the other ones.  
 13 Q. Let me show you the insert for January 14, 1992, and I  
 14 ask you to look at that paragraph.  
 15 A. That's correct. Yes.  
 16 Q. Did you recall -- do you recall now any discussions that  
 17 you had with Agent DeVecchio about this information?  
 18 A. As I mentioned, we discussed -- I went into him every  
 19 morning. I gave the report. I told him what information we  
 20 had and if this was information that came in, it was  
 21 discussed.  
 22 Q. So there never came a time, as you recall, in December of  
 23 1991 or January of 1992, where you had discussions with Agent  
 24 DeVecchio about the possibility that Gregory Scarpa, the  
 25 informant, was actually out murdering people? No discussions

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 1 Q. Do you recall whether he expressed surprise or dismay  
 2 when you told him this news about Gregory Scarpa? Do you  
 3 recall any of that?  
 4 A. As I say, I don't recall. There was a conversation every  
 5 single day about this war while we were investigating it.  
 6 MR. SHARGEL: May I have a moment, your Honor?  
 7 (Pause.)  
 8 Q. Let me ask you another question: Gregory Scarpa wasn't  
 9 the only informant that C-10 had, was he?  
 10 A. There were a number of informants both on C-10 and on  
 11 other squads that other agents handled that reported on the  
 12 war.  
 13 Q. Let's stick with C-10 for a moment.  
 14 Were there -- I don't want to know their names and I  
 15 bet the court wouldn't let me know anyway. Were there other  
 16 informants that were giving information about what was going  
 17 on during this period of time?  
 18 A. Yes.  
 19 Q. And did other informants provide information that was  
 20 placed in inserts to form 209's?  
 21 A. Yes.  
 22 Q. And did other informants give information about these  
 23 very same topics, the shootings of Amato and -- Gaetano Amato  
 24 and Tolino and Fusaro and Grancio? Did you get that  
 25 information from other informants?

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 1 like that?  
 2 MR. WEISSMANN: Objection. Misstates his  
 3 testimony.  
 4 THE COURT: I'll allow it. If you can answer it,  
 5 answer it.  
 6 A. As I said, I spoke to him every day about the information  
 7 that we had. This was information that we had. I told it to  
 8 him.  
 9 Q. Did there come a time when you knew of the arrest of  
 10 Carmine Imbriale?  
 11 A. Yes.  
 12 Q. When was that?  
 13 A. It was the end of February 1992.  
 14 Q. Were you involved in the debriefing of Imbriale?  
 15 A. Eventually, yes.  
 16 Q. And before you were actually -- before that eventuality  
 17 came, before you were actually involved in the debriefing of  
 18 the Carmine Imbriale, you learned the information that he was  
 19 giving to other agents, right?  
 20 A. Not exactly that way. If you would like, I can explain.  
 21 Q. Let me ask the question their way.  
 22 Were you still Colombo coordinator the end of  
 23 February 1992?  
 24 A. Yes.  
 25 Q. Were you the Colombo coordinator at the beginning of

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- 1 Q. I'm asking you for the name of a single agent who you  
2 spoke to, a supervisory agent, disclosed this information  
3 about Scarpa?  
4 A. Whoever. It would have been I imagine North, Brian  
5 Taylor, anybody that was asking questions about the FBI that  
6 would have come on these topics, it would have been given to  
7 them. It was not withheld.  
8 Q. Don North knew this information that you had learned from  
9 Imbriale, right?  
10 A. (No response.)  
11 Q. Yes or no?  
12 A. He would have -- I can't recall specific conversation  
13 but all this information was passed along. When we had bigger  
14 meetings about it, it was discussed.  
15 Q. In March of 1992, March 31st, 1992, after Gregory Scarpa,  
16 according to what you were told by the Kings County District  
17 Attorney's Office was seen throwing a gun out the window, you  
18 took steps as directed by Lindley DeVecchio so that  
19 Gregory Scarpa would not be arrested, right?  
20 A. No.  
21 Q. No?  
22 A. No.  
23 Q. Well, did you have a conversation with the an Assistant  
24 United States Attorney on this question?  
25 A. Not on that question.

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- 1 Q. Did you say to an Assistant United States Attorney that  
2 our concern was that the New York City Police Department would  
3 force us to arrest Scarpa?  
4 A. Yes.  
5 Q. When did you --  
6 A. That's not the exact wording. Basically --  
7 Q. Not the exact wording?  
8 A. I can't recall. I would quote it but that's basically  
9 what we were discussing.  
10 Q. Did you say --  
11 A. In a 302?  
12 Q. Did you say that you're concerned --  
13 A. Were you asking me if that's what I said to the  
14 prosecutor?  
15 Q. Let me finish the question.  
16 A. Okay.  
17 Q. After notifying DeVecchio, I'll read it, if I may. I  
18 notified DeVecchio and since our concern was that the NYPD  
19 would force us to arrest Scarpa for the gun, we called  
20 Stamboulidis and informed him that Scarpa was a source; is  
21 that right?  
22 A. Yes.  
23 Q. Then you had a conversation with Mr. Stamboulidis, right?  
24 A. And others, yes.  
25 Q. Well, the individual in your 302 that you recall having a

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- 1 conversation with is Mr. Stamboulidis, correct?  
2 A. I spoke to him on the phone. Is that the part you're  
3 talking about -- then we went and had a subsequent meeting.  
4 I'm not sure what you're getting at.  
5 Q. Did Mr. Stamboulidis say he could avoid arresting Scarpa  
6 federally because of detectives' statements being convoluted  
7 or something like that?  
8 A. That -- we had a discussion about whether this required  
9 an arrest, whether there was probable cause for arrest,  
10 whether we had to go out and do the arrest. We didn't want to  
11 arrest him because he was an informant, providing information,  
12 but if there was probable cause for an arrest we would do it.  
13 That was what the discussion was about. There was a problem  
14 of the way the information had been relayed to me. There was  
15 also a problem because two people were in the car and no one  
16 saw exactly who threw the gun out.  
17 Q. You knew it was a federal crime for a felon to be in  
18 possession of a gun, you knew that?  
19 A. I knew that. He wasn't the only one in the car. That  
20 was part of the problem.  
21 Q. You knew at that time that a detective said he saw  
22 Gregory Scarpa, you know that, throw the gun out, out the  
23 window, right?  
24 A. That's what he said. He didn't describe him.  
25 Q. So there was some equivocation?

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- 1 A. There was.  
2 Q. So you thought and felt comfortable knowing what the  
3 substance of the guidelines are, you felt comfortable in March  
4 of 1991, the end of March of 1991 keeping Scarpa or seeing  
5 that Scarpa was not arrested, right?  
6 A. We went and talked to the prosecutor --  
7 Q. Can you answer that yes or no?  
8 A. You use the term "felt comfortable." We went to find out  
9 whether there was probable cause for an arrest, whether one  
10 could be done, whether we would do it. They said there was  
11 not; that the other alternative was a Brooklyn District  
12 Attorney could arrest him if they felt it was and they didn't  
13 either.  
14 Q. They could arrest him?  
15 A. If they felt it was probable cause they could arrest him.  
16 Q. Agent Favo, did you know the Brooklyn District Attorney's  
17 Office had what they called a "wanted" on him?  
18 A. I later found out they issued a wanted, not a warrant.  
19 Q. Did you know they were out looking for him?  
20 A. Yes.  
21 Q. Did you know they wanted -- that they had camped at his  
22 door, to use your words, did you know that?  
23 A. Yes.  
24 Q. You knew they were actively looking for him until at  
25 least April 15th, 1992, correct?

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1 THE COURT: That's right, I'm going to take a  
2 break.  
3 MR. SHARGEL: Let us take a short break.  
4 THE COURT: Otherwise we'll fish around, hack around  
5 more than we need to. Go ahead. Take a ten minute break, get  
6 the information. Counsel for the government, can you instruct  
7 the witness on what he can or cannot say what I instructed?  
8 MR. SHARGEL: May I say one thing before you go?  
9 Mr. Orena is not in the penitentiary, there's no sep problem  
10 with them.  
11 THE COURT: Pardon?  
12 MR. SHARGEL: They're not in separation.  
13 THE COURT: I want them separated while they're in  
14 the courthouse.  
15 (Recess).  
16 (Continued on next page.)  
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1 MR. SHARGEL: May I proceed?  
2 THE COURT: Yes.  
3 MR. WEISSMANN: Your Honor, the FBI has told us that  
4 Greg Scarpa was closed on March 3 of 1992 and reopened April 8  
5 of 1992.  
6 THE COURT: Thank you.  
7 MR. SHARGEL: May I?  
8 THE COURT: Yes.  
9 BY MR. SHARGEL:  
10 Q. Agent Favo, now that we have the date of March 3, 1992,  
11 that's the date I'd like to focus you on. March 3, 1992 was  
12 within a day, give or take, of when you yourself had spoken or  
13 the FBI had spoken to Carmine Imbriale, correct?  
14 A. Prior to it, yes.  
15 Q. Whether it rose to the level of probable cause or not,  
16 you received information prior to March 3 that Gregory Scarpa  
17 had shot or claimed credit for or boasted the shooting of Joel  
18 Cacace?  
19 A. That's correct.  
20 Q. And you had information from informants, as you told us  
21 earlier before the first break, you had information from  
22 informants that are unnamed that Gregory Scarpa was actively  
23 involved in violence, correct?  
24 A. Yes.  
25 Q. You had information about the murders of Gaetano Amato,

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1 about Fusaro, about Grancio, and with respect to each one of  
2 those, you had information that Gregory Scarpa was involved,  
3 correct?  
4 A. I don't know about all of them. But we had information  
5 that he was part of the war, he was one of the people that was  
6 involved with it.  
7 I don't recall whether we had specific information on  
8 each one, naming him as being involved in each one.  
9 Q. Specifically, let's take one example, and we had this, I  
10 don't want to go over it, but with respect to Grancio --  
11 A. I'll grant you Grancio.  
12 Q. -- you had specific information that he was the killer,  
13 correct?  
14 A. No. No. We had information that he was involved in the  
15 murder. We had information that he was, that his son was and  
16 other people were named as being involved in the murder.  
17 Q. And this came from multiple sources, right?  
18 A. Yes. Multiple sources provided the overall information.  
19 Not all of them named his involvement in it.  
20 Q. Was it before Imbriale or after Imbriale that you got  
21 this information -- withdrawn. By March 3, according to the  
22 stipulation from the government, Scarpa is already closed,  
23 he's closed at that point, correct?  
24 A. Yes.  
25 Q. And in order to close an informant, certain steps may be

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1 taken -- must be taken in accordance with guidelines, correct?  
2 A. Yes. They send a communication to close.  
3 Q. And, in fact, the communication doesn't simply go to a  
4 supervisor at 26 Federal Plaza, correct?  
5 A. It goes to headquarters.  
6 Q. In Washington, D.C.  
7 A. Washington, D.C., yes.  
8 Q. And the memorandum --  
9 MR. SHARGEL: I'm going to ask for production of the  
10 memorandum closing him as an informant.  
11 MR. WEISSMANN: We object.  
12 THE COURT: Denied.  
13 MR. SHARGEL: I'd like to tell you this, Judge: at  
14 the trial before Judge Korman, the government put into  
15 evidence, as Exhibit 5000-B, a teletype that was a closing  
16 document at that time in September, not this closing, but in  
17 September of 1990 -- or at least marked, I don't know if it  
18 got into evidence, but at least marked it as an exhibit.  
19 So I have made my request. I understand you denied  
20 it, but I have made my request for that closing document.  
21 Q. In that closing document, without giving us any specifics  
22 or revealing any secrets, in that closing document -- by the  
23 way, were you familiar with the closing document?  
24 A. No.  
25 Q. Did you ever see the closing document?

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- 1 Scarpa was closed?
- 2 A. Yes. I believe so.
- 3 Q. Agent DeVecchio asked you to get certain information for
- 4 him?
- 5 A. He had a phone number that he asked me to run.
- 6 Q. Did you know before he asked you to run that phone number
- 7 that he had spoken to Scarpa on the telephone?
- 8 A. I didn't know for sure, but I assumed it.
- 9 Q. Well, what happened that made you assume that?
- 10 A. Because my impression was, from speaking to him, that
- 11 this phone number had something to do with a safe house being
- 12 used by the Russo crew, Chuckie Russo, JoJo Russo.
- 13 Q. During this period of time -- by the way, is this after
- 14 you see Agent DeVecchio speaking with Gregory Scarpa on the
- 15 phone and telling him about Imbriale, or before?
- 16 A. I believe it's before. As I say, I can't put a specific
- 17 date to it.
- 18 Q. What did Agent DeVecchio ask you to do?
- 19 A. He asked me to run a phone number. He had written it on
- 20 a sheet of paper. When I looked at it, I couldn't read one of
- 21 the digits so I ran it two ways.
- 22 I took it up to the -- sent it up to the operations
- 23 center that does, they call it a fast track, they take the
- 24 number and give the address.
- 25 Q. Didn't you ask Agent DeVecchio what that number was for?

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- 1 ago, you checked those numbers, right?
- 2 A. Yes.
- 3 Q. You knew they didn't come back to any locations that
- 4 could be fairly described as safe houses, right?
- 5 A. I didn't know that.
- 6 Q. You didn't know that?
- 7 A. No.
- 8 Q. What did they come back for?
- 9 A. One came back for a phone booth, which turned out to be a
- 10 phone booth, the other one was for a laundromat. I went out
- 11 to Long Island and found both addresses -- well, I found one
- 12 of the addresses. I couldn't find the second one.
- 13 Q. Were you puzzled by what those numbers came back to?
- 14 A. When I went out there?
- 15 Q. Yes.
- 16 A. Yes.
- 17 Q. Because it didn't resemble anything that could be a safe
- 18 house, correct?
- 19 A. That's correct.
- 20 Q. And you came back to 26 Federal Plaza and you had another
- 21 conversation with Agent DeVecchio, didn't you?
- 22 A. That was, I think, like a Sunday that I went looking for
- 23 them, so sometime early the next week I asked him what the
- 24 numbers were.
- 25 Q. What did he tell you?

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- 1 A. I assumed -- I believed it was for the Russo safe house.
- 2 Q. My question is, didn't you ask --
- 3 A. Well, I don't know that I asked him, but I had that
- 4 impression. So either I asked him or he gave it to me, but
- 5 that was the impression that I had.
- 6 Q. As you sit here now, can you think of anything that
- 7 caused that impression?
- 8 A. I'm sure we discussed it. I don't know whether I asked
- 9 him or not, but that was the impression I had, it had
- 10 something to do with the Russo safe house.
- 11 Whether he told me that as he gave me the phone
- 12 number or I asked him what this was for and he told me that, I
- 13 can't recall.
- 14 Q. Does it refresh your recollection that on page 4 of your
- 15 302 -- since there is no jury here, I will save a step -- you
- 16 said in your 302, that I asked Special Agent DeVecchio what
- 17 the number was for and DeVecchio skated that it was for Joseph
- 18 and Anthony Chuckie Russo's safe house; do you remember
- 19 that?
- 20 A. Yes, I remember writing that.
- 21 Q. Does that refresh your recollection as to what happened?
- 22 A. Then it was that way. I'm telling you, I'm not trying to
- 23 not tell you what it is. If that's what it says, that's what
- 24 it is.
- 25 Q. Then you went out and you did -- as you said a moment

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- 1 A. I told him I went out there and these didn't look like a
- 2 safe house.
- 3 Q. What did he tell you?
- 4 A. He said they had something to do with Scarpa's business,
- 5 which I believed I took to be loan-shark business.
- 6 Q. You knew it was a number for a loan-shark victim, right?
- 7 A. I believed that. I assumed that, but I don't know that.
- 8 Q. Didn't you say -- if I may, 5173, Mr. Weissmann -- do you
- 9 remember being asked these questions and giving these answers
- 10 at a trial last year?
- 11 "QUESTION: He..." meaning Agent DeVecchio "...told
- 12 you that it was one of Scarpa's loan-shark victims, isn't that
- 13 right, sir?
- 14 "ANSWER: The words were business number. What it
- 15 meant to me was loan-shark victim.
- 16 "QUESTION: Well, sir, you wrote down in your 302
- 17 one of Scarpa's loan-shark victims, didn't you?
- 18 "ANSWER: Yes. The terminology he used was
- 19 customer.
- 20 "QUESTION: Is that right?
- 21 "ANSWER: Which I knew to mean loan-shark victim."
- 22 Then you go on to say in another answer later on down
- 23 the page that I assume that Scarpa was in the loan-shark
- 24 business.
- 25 Do you remember giving those answers to those

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- 1 questions?
- 2 A. Yes.
- 3 Q. Well, did you think something was odd or peculiar that
- 4 your supervisor, Agent DeVecchio, was checking numbers to find
- 5 Scarpa's loan-shark victims?
- 6 A. I thought it was improper.
- 7 Q. As a matter of fact, you knew it was improper, didn't
- 8 you?
- 9 A. Yes. It was not something I would have done.
- 10 Q. Well, you know as you sit here now, and you knew back
- 11 then in February or March, whenever this took place, in 1992,
- 12 that an FBI agent is not supposed to aid someone in committing
- 13 a crime, right?
- 14 A. That's correct.
- 15 Q. And you know it now and you knew then that loan-sharking
- 16 was a crime, right?
- 17 A. That's correct.
- 18 Q. And you know now and you knew then that helping a
- 19 loan-shark get a number or locate or find a customer or a
- 20 victim is illegal, you knew that, right?
- 21 A. Yes.
- 22 Q. In fact, you said that it raised a problem with you then,
- 23 and you were very concerned about it, right?
- 24 A. That's correct.
- 25 Q. My question to you, Agent Favo, is there anyone that you

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- 1 reported that to?
- 2 A. In January '94, I reported it.
- 3 Q. January of 1994?
- 4 A. Yes.
- 5 Q. By the time that Scarpa was reopened on April the 8,
- 6 1992, you already had the Imbriale problem in your mind; you
- 7 knew that was a problem, right?
- 8 A. Yes.
- 9 Q. By the time Scarpa was reopened on April the 8, 1992, you
- 10 had this episode with getting numbers of a shylock or
- 11 loan-shark victim for Scarpa; you heard that, right?
- 12 A. Yes.
- 13 Q. Is there any procedure that you know of within the FBI
- 14 that if another agent is doing something improper, unethical
- 15 or criminal, anyone of those things, that there's a procedure
- 16 to pass that information along to a responsible person?
- 17 A. You report it to your supervisor.
- 18 Q. Well, if your supervisor is the person who is doing
- 19 something wrong, does that mean there's no one else you can
- 20 report it to?
- 21 A. Then you would report it to his supervisor.
- 22 Q. And his supervisor was Donald North?
- 23 A. That's correct.
- 24 Q. And you knew that full well in 1992?
- 25 A. Yes, I did.

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- 1 Q. And you knew full well under the Attorney General
- 2 guidelines and everything you knew about the FBI that you had
- 3 reason to believe that Lindley DeVecchio was doing things that
- 4 were improper, unethical or criminal, right?
- 5 A. I had a suspicion.
- 6 Q. And in April --
- 7 A. The problem was that --
- 8 THE COURT: Let him finish.
- 9 A. That incident, the Imbriale incident, which I believed to
- 10 be inadvertent, could be explained as being inadvertent. This
- 11 incident, I wasn't a part of the phone call, I only knew what
- 12 he had told me. I didn't know the entire circumstances of
- 13 anything that he had done.
- 14 So on its own it didn't rise to a tremendous level of
- 15 probable cause for anything.
- 16 Q. Agent Favo, was your determination that it didn't rise to
- 17 the level of probable cause about anything colored by, what
- 18 you said before, the blind faith in Agent DeVecchio? Can you
- 19 answer that yes or no?
- 20 A. I don't recall saying blind faith. But I'll deal with it
- 21 this way. I would not have suspected him of doing anything
- 22 improper at this time, and I did not.
- 23 Q. Agent DeVecchio --
- 24 A. And I perceived that as being something, some aberration,
- 25 or I didn't know the entire story.

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- 1 Q. Agent --
- 2 A. And I had a lot more to be concerned with at that point
- 3 then Lin DeVecchio and his informant. We were in the middle
- 4 of a war. There were a lot of shootings by a lot of people.
- 5 Q. Concerned with that or not, you knew that corrupt or
- 6 illegal activity of a brother FBI agent was something that you
- 7 should be concerned with, correct?
- 8 A. That's correct.
- 9 Q. And you knew also, did you not, that you had an abiding
- 10 faith in DeVecchio's integrity that prevented you, at least at
- 11 that time, from going to anyone else in the FBI, right?
- 12 A. When you say prevented, it would be along the lines that
- 13 I thought I must be mistaken or there is more to this.
- 14 Q. In other words --
- 15 A. And -- so, in other words, that I didn't think that this
- 16 was what it appears to be now as we look back at it.
- 17 Q. So in the period -- I'm still, say, with the period
- 18 February, March, April -- you were essentially giving Agent
- 19 DeVecchio the benefit of the doubt, right?
- 20 A. That's correct.
- 21 Q. You have said earlier that to report Agent DeVecchio to
- 22 other supervisors in the FBI, it wouldn't be believed, it
- 23 wouldn't be taken well, I think you said in the past, right?
- 24 A. It would not have been believed.
- 25 Q. It was as if someone said that your wife was cheating;

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- 1 Q. In fact, even before May the 22, 1992, based on what
- 2 you -- what happened, what you saw and observed in the early
- 3 part of 1992, February, March and April, you stopped giving
- 4 Agent DeVecchio accurate information, correct?
- 5 A. No.
- 6 Q. The answer is no?
- 7 A. No. After that.
- 8 Q. After May 22?
- 9 A. Yes.
- 10 Q. Did you --
- 11 A. As it pertained to Greg Scarpa.
- 12 Q. As it pertained to Greg Scarpa?
- 13 A. Information that pertained to Greg Scarpa.
- 14 Q. How long after that, by the way? How long after May 22?
- 15 A. What how long after May 22?
- 16 Q. How long after May 22 did you start telling Agent
- 17 DeVecchio things that were not true or were not giving him
- 18 information?
- 19 A. Actually, I wasn't telling him the complete story as it
- 20 pertained to Greg Scarpa, and for the most part it happened
- 21 after Joseph Ambrosino became a cooperating witness.
- 22 Q. That was in June, correct?
- 23 A. That's right.
- 24 Q. Let me ask you, do you remember being asked these
- 25 questions and giving these answers at page 5160, starting on

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- 1 5159, about when it was that you began withholding information
- 2 from Lindley DeVecchio.
- 3 You were asked about a meeting -- going back to 5158,
- 4 Mr. Weissmann -- about a meeting in January of 1992 with
- 5 a then Assistant District Attorney in Kings County named Eric
- 6 Seidel; do you remember that?
- 7 A. Yes.
- 8 Q. Do you remember Eric Seidel saying that he was concerned
- 9 about giving you information because he thought that there
- 10 were leaks in the FBI?
- 11 A. Yes.
- 12 Q. In other words --
- 13 A. A specific agent that he mentioned.
- 14 Q. A specific agent by the name of Drews, right?
- 15 A. Drou.
- 16 Q. And then you were asked questions about whether you
- 17 started withholding information from Lindley DeVecchio, do you
- 18 remember being asked those questions?
- 19 A. Yes.
- 20 Q. And do you remember being asked was it before that,
- 21 meaning the meeting with Eric Seidel in January of 1992, and
- 22 you said it was after that. Do you remember that?
- 23 A. It would have been after that.
- 24 Q. And then you were asked when after that, and do you
- 25 remember giving this answer: I became concerned around

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- 1 February. It's hard to put a date to it because it happened
- 2 awhile ago, but after, at the end of February, the end of
- 3 March and April, I became concerned and began to be more
- 4 careful about what I said. As of May, 1992, I did not tell
- 5 him anything truthfully about what we were -- what
- 6 investigations were going on with Gregory Scarpa.
- 7 "QUESTION: So you began to lie to him?
- 8 "ANSWER: I did.
- 9 "QUESTION: Right?
- 10 "ANSWER: Yes.
- 11 "QUESTION: Openly?
- 12 "ANSWER: To him."
- 13 As of May of 1992, after everything that you learned
- 14 in February and March and April, you began lying to Lindley
- 15 DeVecchio, right?
- 16 A. After May 22, I was sure that I could not speak to him
- 17 straightforwardly as it concerned Greg Scarpa.
- 18 But I thought that your question was specifically
- 19 when we stopped doing this, and the information that I was
- 20 withholding was information coming from Joseph Ambrosino.
- 21 That's why I placed that in June.
- 22 During the period of May 22 to June 10, we were
- 23 involved in something elsewhere. Scarpa was not an issue, so
- 24 I don't know that I withheld anything from him during that
- 25 time.

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- 1 Q. Ambrosino is arrested on June 11, or agrees to cooperate
- 2 on June 11, 1992.
- 3 A. That's correct.
- 4 Q. June 11, 1992, do you debrief him? The answer is yes,
- 5 isn't it?
- 6 A. Yes, it is.
- 7 Q. You debriefed him with an agent by the name of Tomlinson,
- 8 correct?
- 9 A. Yes. And other agents. It was a long debriefing period,
- 10 several months. So Jeff Tomlinson was there most of the time,
- 11 and other agents as well.
- 12 Q. Ambrosino told you about Gregory Scarpa; that was one of
- 13 the topics of conversations, right?
- 14 A. Yes.
- 15 Q. And that was in June of 1992, correct?
- 16 A. Yes.
- 17 Q. And in June of 1992, he tells you that Gregory Scarpa
- 18 murdered Fusaro, right?
- 19 A. Yes.
- 20 Q. You knew it for sure at that point, right?
- 21 A. Yes.
- 22 Q. You knew in June of 1992, when Ambrosino cooperates, that
- 23 Gregory Scarpa had murdered Grancio, correct?
- 24 A. That's what he says, yes. And we have it on a tape
- 25 recording by that time.

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AFTERNOON SESSION

2 CHRISTOPHER FAVO, resumed:

3 THE COURT: All right, proceed, please.

4 DIRECT EXAMINATION

5 BY MR. SHARGEL: (Continued).

6 Q. Agent Favo, before the lunch break I asked you a question  
7 about your learning about a meeting at Gregory Scarpa's house  
8 in December of 1991; you recall that question, right?

9 A. Yes.

10 Q. In fact, it's been referred to in other proceedings and  
11 you're familiar with the reference the kitchen meeting?

12 A. Yes.

13 Q. Have you heard that?

14 A. I heard about the kitchen table 302 regarding the  
15 document.

16 Q. When did you learn -- I would like to get from you --  
17 when did you learn about that meeting? When did Agent Andjich  
18 or Agent Tomlinson, who were present there with Agent  
19 DeVecchio, when did they tell you about that?

20 A. Agent Andjich told me about a day or two afterwards.

21 Q. Did he tell you in such a way that it raised his  
22 suspicions or concerns about the way Agent DeVecchio was  
23 handling this matter of Gregory Scarpa?

24 A. His concern was that they had gone to the house and they  
25 had sat in the living room with the television on, rather than

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1 going in and sitting in on the meeting.

2 Q. Do you recall any further conversation about any  
3 suspicion he raised to you? You were the coordinator at that  
4 time. Any other suspicion that he raised to you?

5 A. We spoke about it for a few minutes. He was upset the  
6 302 that had come out had been a very short document  
7 describing another aspect of this.

8 What he spoke about mostly was going to the house or  
9 whatever, going to the house, not getting in to see Scarpa,  
10 having to sit in the living room for an hour, him thinking  
11 it's improper, and the 302 didn't reflect what was on the 302,  
12 and he had signed the 302 or hadn't signed the 302.

13 Q. The 302 that he signed, you've seen that before, have you  
14 not?

15 A. Yes.

16 MR. SHARGEL: Judge, may I have a moment?  
17 (Pause.)

18 Q. The 302 that was actually prepared, let me show you a  
19 document that's dated 12-10-1991, and I'll show that to  
20 government counsel.

21 The 302 that was prepared on 12-10-1991. Is that a  
22 209 insert or is that a 302?

23 A. It's a 302.

24 Q. It appears in form somewhat different than an ordinary  
25 302, is that right?

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1 A. Not that I know of.

2 Q. The information that's contained in that 302, which is

3 Exhibit P in the appendix, the information that is contained

4 in that 302, does that information, as far as you know,

5 reflect what was actually said to Agent DeVecchio that day, if  
6 you know?

7 A. I know it does not reflect what was said to Agent  
8 DeVecchio that day.

9 Q. Do you know there is a 209 report that was prepared for  
10 the same meeting?

11 A. That was at my suggestion.

12 Q. And at your suggestion to whom?

13 A. Agent DeVecchio.

14 Q. Did you have a conversation with Agent DeVecchio as to  
15 why this 302, this form 302 was prepared in the manner that it  
16 was?

17 A. Yes.

18 Q. Is it -- tell us what that conversation was?

19 A. When Lin came back from meeting Scarpa, he was concerned  
20 that he had been seen in the neighborhood by people in the  
21 neighborhood going in and out of the house.

22 At that time we had just had Al D'Arco become a  
23 cooperating witness and when he came in he advised there was a  
24 leak of information from the FBI.

25 We were working another case or just completing

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1 another case involving a witness whose identity ended up being  
2 disclosed to the Orenas through a means that we couldn't  
3 tell. Our concern was that there was somebody in the FBI that  
4 might have had access to our files.

5 Since that person could conceivably search our files  
6 to find what document reflected the meeting where DeVecchio  
7 could have been seen at the house, I suggested that he write a  
8 302 that says, basically, that nothing happened, nothing was  
9 discussed, a negative meeting.

10 Then the 209 was created the following date with the  
11 symbol numbers so you couldn't tell you who gave the  
12 information; anybody reading it couldn't tell, and that's what  
13 reflected what DeVecchio and Scarpa had discussed.

14 Q. The 302 that you have in front of you is for December 10?

15 A. That's correct.

16 Q. And the 209 insert for that very same meeting -- it was a  
17 single meeting -- is dated December 11?

18 A. That's correct.

19 Q. Do you know as you sit here now which date the meeting  
20 took place?

21 A. The 10th.

22 THE COURT: What year are we talking about now?

23 MR. SHARGEL: The kitchen meeting, the actual  
24 meeting.

25 THE COURT: What year?

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